

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 2:20-00054

NEDELTCO VLADIMIROV

**DEFENDANT'S RESPONSE TO GOVERNMENT'S MOTION
TO TOLL THE SPEEDY TRIAL ACT AND CONTINUE TRIAL**

The defendant, Nedeltcho Vladimirov, by his attorney, Assistant Federal Public Defender Rachel E. Zimarowski, files the following response to the Motion by the United States to toll the Speedy Trial Act and Continue Trial. Dkt. No. 51.

1. On September 17, 2020, the government moved the Court to continue the trial and all related deadlines and hearings in this matter by at least 30-60 days. Dkt. No. 51. On September 18, 2020, the Court ordered Mr. Vladimirov to respond to the government's motion by September 24, 2020. Dkt. No. 52. Later that same day, Chief Judge Thomas E. Johnston entered General Order #9, continuing "all . . . criminal petit jury selections and trials" in the Southern District of West Virginia "until further order of the Court." 2:20-mc-00052, Dkt. No. 12 at 2 (Sept. 18, 2020). The Order "specifically f[ound] that the ends of justice served by ordering the continuances outweigh the best interests of the public and each defendant in a speedy trial[] pursuant to 18 U.S.C. § 3161(h)(7)(A)" in light of "the Court's reduced ability to obtain an adequate spectrum of petit jurors and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom." *Id.* at 203.

2. Mr. Vladimirov has been incarcerated at South Central Regional Jail (“SCRJ”) since March 10, 2020—nearly six and a half months. The undersigned’s previously-filed Motions to Continue and Motion to Reopen Detention Hearing and Reconsider Pretrial Release detail the myriad communication difficulties between Mr. Vladimirov and the undersigned since the onset of the pandemic. *See* Dkt. Nos. 35, 43, 44. Most recently, SCRJ suffered an outbreak of COVID-19 that essentially closed the facility to visitors between August 8, 2020, and September 14, 2020. During that time, Mr. Vladimirov and the undersigned were limited to brief phone calls utilizing the public pod phones and, following multiple unsuccessful scheduling inquiries, one video conference that was plagued by technological difficulties.

3. The government seeks an “ends-of-justice” continuance under 18 U.S.C. § 3161(h)(7)(A) and cites a number of concerns that are centered around the difficulties associated with locating and serving subpoenas on its desired witnesses. Notably, however, the Speedy Trial Act specifically states that “no continuance under [§ 3161(h)(7)(A)] shall be granted because of . . . failure to obtain available witnesses on the part of the attorney for the Government.” *Id.* § 3161(h)(7)(C). The government argues that preparing for trial will be “difficult[]” and “complicat[ed],” Dkt. No. 51 at 3, not that it will be “impossible,” 18 U.S.C. § 3161(h)(7)(B)(i).

4. The undersigned understands and appreciates the government’s concern for the health of “litigants, witnesses, court personnel, and the jury pool.” Dkt. No. 51. However, Mr. Vladimirov’s health risks are exponentially greater due to his lengthy pretrial incarceration at a facility that has already had one large outbreak and will surely suffer more as the weeks and months go on. In short, he objects to any further continuance or delay in this matter while he remains incarcerated.

5. If the Court grants the government's request or otherwise continues the trial due to General Order #9, the undersigned requests that the Court also re-set the pretrial motions deadline and pretrial motions hearing date.

Date: September 21, 2020.

Respectfully submitted,

NEDELTCCHO VLADIMIROV

By Counsel

WESLEY P. PAGE
FEDERAL PUBLIC DEFENDER

s/Rachel E. Zimarowski

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